

Automated Commercial Environment—Requirements Recommendation

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Requestor:	Trade Coalition ¹ , Entry Process Subcommittee ²
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Requirement

Importers should be able to designate either prospectively, or retrospectively those elements of an ES/IASS they want to reconcile or revise. Business reality dictates that an importer will frequently not know or be able to identify on a prospective basis the types of adjustments it will need to make. While an importer filing computed value reconciliations will always know ahead of time that Computed Values will have to be adjusted, an importer using Transaction Value may not have such a general knowledge. For example, a given importer knows that for the vast majority (99.9%) of its business, Transaction Value will be based on the price paid or payable, without any adjustments to price or for the other statutory additions provided for in 19 USC 1401a(b). On occasion, however, certain business transactions may occur which may impact dutiable value. For a specific group of SKU's, months after import, the importer may receive a bill for a special mold that had to be provided to the manufacturer. Upon performing a review, the importer's compliance department discovers and validates that the mold expense relates to merchandise previously imported. At that point in time, the importer is ready to signal intent to reconcile as to the specific SKU's (and issue) affected.

Retroactive flagging does not guarantee that every issue will be identified in a manner timely enough to capture within the reconciliation process, i.e., discovery of the issue may still occur after the deadline for retroactive flagging, necessitating an SIL or prior disclosure. However, many importers do not believe that aberrational adjustments warrant the prospective blanket flagging of all import activity just in case a Reconciliation adjustment may be necessary. Such blanket prospective flagging would require that the importer who might have an assist covering ten out of ten thousand SKU's, flag each and every summary/IASS covering all SKU's. Moreover, it is inequitable to create huge contingent liabilities with respect to an importer as a result of flagging all activity for the few aberrations (for finality purposes, Customs currently treats each flagged element as open (unliquidated) for one year after the Reconciliation is filed plus extensions, when applicable). Retroactivity provides the means to pinpoint the exact merchandise and issues subject to adjustment. Such pinpointing allows every thing else to liquidate.

Under current legal and policy protocols, Customs needs to know what will be reconciled prior to liquidation, so that the items (e.g. IASS line(s)) will remain open for adjustment by the importer. However, in the case of Aggregate Reconciliation, where the aggregate adjustments are never traced back to individual entry summaries, there is no systems logic to flagging summaries or IASS's. In the latter case, the items are flagged and then the flags are resolved as a pro-forma process.

Business Need

Filers should be able to indicate in ACE on a retroactive basis, which of their IASS lines (or entry

¹ Richard M. Belanger, ERP III Letter to Stuart Seidel, April 10, 2001.

² June 27-28, 2001 Entry Process Subcommittee Meeting Minutes, Recommendation 3.

summaries, or entry summary lines) they have an intent to Reconcile. Some in the trade also want the further ability to focus the flag for IASS lines to issues (e.g., assist) within the line. In any case, the intent is to let all items that are not flagged finalize. The flagged items, would remain open until relieved by the filing of a reconciliation.

In order to recognize that Aggregate Reconciliation adjustments do not tie back to IASS/summary filings, it is also suggested that the system be designed to allow an Aggregate Reconciliation without flagging, should policy ultimately accommodate this point. This would also accommodate the Customs ERP concept of the "corrective period" in which no flagging was required. As to the latter, importers remain concerned that aggregate adjustments not be used as a vehicle to keep open all import activity for the period being adjusted. For example, if Aggregate Reconciliation data is filed for the fiscal year for an assist covering a certain HTSUS number from one country, importers do not want all underlying declarations (i.e., all IASS lines for that year) to be open with respect to assists, much less all value issues. Note that for the latter reason, should Customs need additional information regarding a Reconciliation, only those lines for which additional information is needed should be extended.

Whether flagging is prospective or retroactive, the trade endorses the idea extant in Customs Federal Register notices about Reconciliation that the method of flagging (entry by entry vs. blanket) does not limit or dictate the method of Reconciliation (entry-by-entry vs. aggregate). See e.g., 63 Fed. Reg. 6257, 6259 (February 6, 1998) Choices for type of Reconciliation uses "are not conditioned on the method of flagging used." For example, entry-by-entry flaggers can use Aggregate Reconciliation. Blanket flaggers can use entry-by-entry Reconciliation. With the implementation of the IASS, the same type of option should be allowed. Those flagging individual IASS lines should be able to use Aggregate Reconciliation. Those using blanket flags for all IASS lines, should be able to reconcile IASS line-by-IASS line.

Technical Need

Benefits

Provides ability for filers to identify reconcilable elements of their IASS/summary filings with particularity; avoids clumsy and unwieldy "meat-axe" approach of overbroad flagging.

Risks

Related Subcommittees

Priority: Critical ☐ High ☐ Medium ☐ Low ☐